

REMARKS

In order to be responsive to the election or restriction requirement set forth in the Office Action, applicants hereby elect Species I: metal, for the securing means material, and Species I: patellar tendon for the implant. Claims 48, 49, 57, 58, 61, 62, 79, 80, 83 and 84 are drawn to the metal species, claims 67 and 89 are drawn to the patellar tendon species, and claims 42-47, 52-56, 65, 66, 72-78, 87, and 88 are generic. It is noted that all the independent claims are believed to be generic such that dependent claims 50, 51, 59, 60, 63, 64, 68-71, 81, 82, 85, 86, and 90-93 remain for consideration upon the allowance of the generic claims.

This election is made with traverse for the following reasons: The key aspects of the restricted claims, though utilizing different materials or implants, are similar to the key aspects of the elected claims. Applicants respectfully submit that claims 42-93, though different in scope, are nonetheless sufficiently similar to merit examination in the same application, as they share dominant elements. Examination of all claims 42-93 in the same application would not pose a serious burden under M.P.E.P. § 803 because there is commonality of dominant elements between the claims of the various species, and the claims covering the species are dependent claims which depend from independent claims that are generic to the species. In a balance of the equities, the burden and cost to applicants of withdrawing dependent claims drawn to inventions having common dominant elements appears to outweigh the burden on the Examiner to search and examine the present

application as a unitary invention. Applicants therefore respectfully request that the election or restriction requirement be withdrawn.

In view of the foregoing, applicants believe that claims 42-93 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of this Response, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Response to Deposit Account No. 50-0836.

DATED this 17 day of January, 2007.

Respectfully submitted,


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